

1 A. No.

2 Q. Were there any papers signed at the
3 third meeting?

4 A. There was a paper signed with
5 Marfisi.

6 Q. You signed a paper with Mr.
7 Marfisi?

8 A. Yes.

9 Q. Do you remember what that paper
10 was?

11 A. If I'm not mistaken it was a paper
12 that was stated that I could, when I sold the
13 property, I could still live there and he told
14 me what the amount of the rent was going to be.

15 Q. I'm sorry, I'm having trouble
16 hearing you. I know the court reporter is,
17 too, you said it was a piece of paper that said
18 what --

19 A. Paper that was stating amount of
20 rent that I would pay and I was told that I'd
21 pay a certain amount of rent and that he would
22 pay whatever the difference was in the rent
23 because I was renting the house back for, I
24 think it was like 250.

25 Q. Are you suggesting that the paper

WWW.BRITTONANDASSOCIATES.COM

1 said Marfisi would purchase the property and
2 lease it back to you?

3 A. It wasn't that he was purchasing
4 it.

5 Q. Who was purchasing the property?

6 A. Because the way it was stated that
7 it was, that there was another party involved
8 in buying the property and that's when they
9 brought up Bigelow's name.

10 Q. They being Marfisi and Christian?

11 A. Yes.

12 Q. This piece of paper that you signed
13 that we are talking about now, who was
14 purchasing the property according to that piece
15 of paper?

16 A. The only two people that signed that
17 paper was myself and Marfisi at that time. We
18 signed it at the house that day, that was it.

19 Q. Do you still have a copy of that
20 piece of paper?

21 A. I'll have to check my papers and see
22 because I don't remember what I did with it.

23 MR. SCHWANTES: You do have to
24 speak up, Ms. Bryant. It is very difficult to
25 hear you.

WWW.BRITTONANDASSOCIATES.COM

1 THE WITNESS: I don't remember
2 what I did with that paper. I think I still
3 have it, I have to go through some papers and
4 see.

5 BY MR. LABER:

6 Q. So at the time that you signed this
7 piece of paper you had not met Mr. Bigelow?

8 A. No.

9 Q. Do you recall Mr. Bigelow's name
10 being on that piece of paper?

11 A. I'm trying to think. He had a stack
12 of papers, I don't remember if it was, I'm not
13 for sure whether it was Bigelow Property on
14 that paper or not, I'm not for sure.

15 Q. But you understood that you were
16 selling the property to somebody?

17 A. Yes.

18 Q. And that you were leasing the
19 property back from somebody?

20 A. Yes.

21 Q. Yes?

22 A. Yes.

23 Q. And then what happens at the end of
24 the lease?

25 A. I bought the house back.

WWW.BRITTONANDASSOCIATES.COM

1 Q. How much were you selling the house
2 for?

3 A. What I owed on it was 11,000.

4 Q. Is that what you were selling the
5 property for?

6 A. I was supposed to have been getting
7 like 20,000 for the house.

8 Q. I'm trying to get at what the
9 purchase price was on this piece of paper.

10 A. They were giving me 20,000,
11 according to the paper.

12 Q. They were giving you \$20,000 cash in
13 addition to --

14 A. At the closing.

15 Q. So they would pay off the mortgage
16 and give you \$20,000 cash?

17 A. (Witness nods head.)

18 Q. You have --

19 A. Check or --

20 Q. I'm just indicating that you have to
21 say yes or no. She can't take down a
22 non-verbal response.

23 A. Yes.

24 Q. So you negotiated this purchase
25 price; is that correct?

WWW.BRITTONANDASSOCIATES.COM

1 A. There wasn't really a negotiation.

2 Q. How was this purchase price arrived
3 at?

4 A. That was the price that they quoted
5 me and told me that I can put that aside to buy
6 my house back with.

7 Q. So that's the price that they told
8 you that they were willing to pay you for the
9 house?

10 A. Yes.

11 Q. And you agreed to accept that
12 price?

13 A. Yes.

14 Q. And also as part of that they were
15 leasing the property back to you?

16 A. Yes.

17 Q. Whomever it was that was purchasing
18 the property back?

19 A. Yes.

20 Q. They were leasing it back to you for
21 how long of a period of time?

22 A. For two years, I think it was.

23 Q. And you said the monthly payments
24 were \$250?

25 A. At first.

WWW.BRITTONANDASSOCIATES.COM

1 Q. Did they go up under the lease?

2 A. Yes.

3 Q. When did they go up?

4 A. I think it was either in, it was in
5 '99, I think it was, '98 or '99. I'm not for
6 sure.

7 Q. Was it written in the lease at that
8 particular time the rent would go up?

9 A. No, it wasn't.

10 Q. So the lease was for two years at
11 \$250 a month?

12 A. It wasn't, at first it was just on
13 the paper that I could rent it for 200 then
14 later I got a lease where it was 500.

15 Q. I'm talking about this piece of
16 paper that you signed with Ms. Christian and
17 Mr. Marfisi at the third visit that Ms.
18 Christian made to your home.

19 A. That was for 200.

20 Q. That's for \$200, a two year lease
21 for \$200 a month?

22 A. Yes.

23 Q. So you are buying, you are selling
24 the property to them for \$20,000, money that
25 you receive at closing plus they take care of

WWW.BRITTONANDASSOCIATES.COM

1 the mortgage but they gave you a two year lease
2 for \$200 a month, yes?

3 A. Go through that one more time.

4 Q. Okay. This piece of paper that you
5 are signing with Mr. Marfisi and Ms. Christian
6 that you are selling the property to somebody,
7 suggests that you are selling the property for
8 \$20,000, that you'll receive at closing plus
9 they take care of the mortgage which you
10 believe to be about \$11,000?

11 A. Yes.

12 Q. Plus they'll lease the property back
13 to you for a period of two years at \$200 a
14 month?

15 A. That's what I was told.

16 Q. And was there any other terms in
17 this writing that you entered into with Ms.
18 Christian and Mr. Marfisi?

19 A. No.

20 Q. You said something about an option
21 to purchase the property back?

22 A. Yes, I could do it in two years.

23 Q. And what was the option to purchase,
24 how much was it, the purchase price?

25 A. There was no purchase price.

WWW.BRITTONANDASSOCIATES.COM

1 (Mr. Bigelow leaves the room.)

2 BY MR. LABER:

3 Q. How did you know how much you were
4 going to purchase the property back for in two
5 years?

6 A. I didn't know.

7 Q. Did you discuss that with them?

8 A. No.

9 Q. But it's going to have this option
10 to purchase the property, to purchase it back
11 written in this contract that we are talking
12 about?

13 A. Yes.

14 Q. And you believe you have a copy of
15 this contract at home?

16 A. I'd have to go through my papers to
17 see. I should have the paper that I signed
18 with them.

19 Q. Have you given a copy of that paper
20 to anybody?

21 A. No.

22 Q. These papers that you have at home,
23 what papers, are they kept in a file, do you
24 have like a file folder or drawer or something
25 where you keep these papers?

WWW.BRITTONANDASSOCIATES.COM

1 A. I have a vanilla envelope that I
2 keep them in.

3 Q. All of the papers with respect to
4 this deal should be in that vanilla envelope?

5 A. They should be.

6 Q. And you believe this option to
7 purchase the property back would be in this
8 written contract that you signed?

9 A. I have to check my papers to see.

10 Q. So you are not sure if there's a
11 written option to purchase back?

12 A. I was told that I could purchase the
13 property back by Marfisi and Rose Christian.

14 Q. I'm sorry, I thought you negotiated
15 the deal with Mr. Marfisi? Did you negotiate
16 the deal with Mr. Marfisi and Ms. Christian or
17 just Mr. Marfisi?

18 A. Both of them were there at the time
19 when I was told that I could buy the property
20 back.

21 Q. But who did the negotiation, did Ms.
22 Christian and Mr. Marfisi or just one or the
23 other?

24 A. Well, both of them were talking.

25 Q. But it's your recollection that

WWW.BRITTONANDASSOCIATES.COM

1 neither of them were purchasing the property
2 from you?

3 A. True.

4 Q. So you signed this piece of paper,
5 do you recall about when that was?

6 A. I don't know whether it was in
7 November or December.

8 Q. Late in the year of '97?

9 A. Yes.

10 Q. And who was present when you signed
11 it?

12 A. Marfisi and Christian.

13 Q. Did you at any time discuss with
14 them a purchase price when they were going to
15 buy the property back?

16 A. No.

17 Q. Did you at any time discuss how to
18 calculate that purchase price when you were
19 going to buy the property back?

20 A. No.

21 Q. So it was left open whether or not
22 you are going to purchase the property back for
23 \$10 or a hundred thousand dollars?

24 A. We didn't discuss a purchasing
25 price.

WWW.BRITTONANDASSOCIATES.COM

1 Q. When was your next contact with Ms.
2 Christian or Mr. Marfisi?

3 A. I didn't, the only time I talked to
4 Christian was one time on the telephone, she
5 had called.

6 Q. And what was that about?

7 A. Because I hadn't, this was after the
8 closing because I hadn't received any money or
9 anything and she told me, she had me call John
10 Marfisi.

11 Q. I don't want to interrupt you, I
12 don't want to get beyond the closing at this
13 point in time. After you signed that purchase
14 contract with Ms. Christian and Mr. Marfisi,
15 was the next contact that you had with anybody
16 the closing?

17 A. The next, the only person I had
18 contact with was to go down to the lawyer's
19 office when Marfisi took me to the lawyer's
20 office to sign the papers for the house.

21 Q. So between the time that you signed
22 this piece of paper in November or December of
23 '97 and the time of the closing on the
24 property, there was no communication between
25 you and anyone else regarding this property?

WWW.BRITTONANDASSOCIATES.COM

1 A. The only person I talked to was
2 Marfisi. We went down --

3 Q. So the answer would be yes, there
4 was no other person, no other communication in
5 between the time that you signed this piece of
6 paper and the closing?

7 A. The appraisal came and appraised the
8 house.

9 Q. Do you remember who that was?

10 A. No, I don't remember his name, and
11 I'm trying to think. That's when I met Pete
12 before we closed.

13 Q. What were the circumstances you
14 meeting Mr. Bigelow?

15 A. He came out and he had got the paper
16 from Marfisi and he came out and he went
17 through the house and he was having the
18 appraiser come and so that he could get the
19 appraisal on the house.

20 Q. Do you recall about when that was
21 with respect to the closing, was it a week
22 before, a couple of weeks before, a month
23 before?

24 A. It might have been a month before
25 because the closing was in, I think, January.

WWW.BRITTONANDASSOCIATES.COM

1 Q. January 27, 1998, does that sound
2 correct?

3 A. Yes.

4 Q. Did you and Mr. Bigelow discuss the
5 terms of the deal at that time?

6 A. The only thing we talked about was
7 the rent that I would be paying and I don't
8 remember for sure if it came up about the
9 20,000 or not.

10 Q. But you didn't discuss any specifics
11 of the deal with respect to the purchase price
12 or the lease or the option to purchase back?

13 A. I don't remember if we brought, if
14 that was brought up or not. It might have
15 been.

16 Q. Is that the only time that you met
17 Mr. Bigelow before the closing?

18 A. Yes.

19 Q. And you said Mr. Marfisi took you to
20 the closing?

21 A. Yes.

22 Q. And the closing would have been with
23 attorney John Meckstroth?

24 A. Yes.

25 Q. Did you sign papers at the closing

WWW.BRITTONANDASSOCIATES.COM

1 with Mr. Meckstroth?

2 A. Yes.

3 Q. Did he hand you those papers and
4 explain each one of those two you before you
5 signed it?

6 A. Yes.

7 Q. Did you have any questions about the
8 papers before you signed it?

9 A. Yes.

10 Q. Did you ask those questions of Mr.
11 Meckstroth?

12 A. Yes.

13 Q. Did he explain them to your
14 satisfaction?

15 A. Yes.

16 Q. Did you require any changes in the
17 paperwork that Mr. Meckstroth presented to
18 you?

19 A. No.

20 Q. Did you ask for any changes to be
21 made?

22 A. No.

23 Q. Do you recall what papers you signed
24 at the closing?

25 A. There was a paper for 20,000, there

WWW.BRITTONANDASSOCIATES.COM

1 was another paper that had the price list.

2 Q. Settlement statement?

3 A. Yes.

4 Q. Tell you what you purchased the
5 house for, what deductions were being made from
6 your part and what payments were being made
7 from the other part?

8 A. I think that's it, if I see the
9 paper I'd know it.

10 Q. I think it was used in a couple of
11 different depositions here. Showing you what
12 was marked as Exhibit No. 7 to Ms. Christian's
13 deposition.

14 MR. SCHWANTES: Are you offering
15 this as an exhibit in this one or just to
16 refresh her recollection? I don't object
17 either way.

18 THE WITNESS: This is one of
19 them.

20 MR. LABER: Let's mark it, I'm
21 sorry.

22 (WHEREUPON, Plaintiff's Exhibit
23 1 was marked for identification.)

24 BY MR. LABER:

25 Q. Plaintiff's Exhibit 1 for your

WWW.BRITTONANDASSOCIATES.COM

1 deposition, you believe that to be the
2 settlement statement that you received from Mr.
3 Meckstroth on January 27, 1998?

4 A. Yes.

5 Q. And this document was presented to
6 Ms. Christian by Attorney Schwantes, do you
7 know how he got ahold of this copy?

8 A. Yes.

9 Q. Is this a document that you
10 presented to him?

11 A. Yes.

12 Q. Did this come from that manila
13 envelope that you have at home?

14 A. Yes.

15 Q. Did you present him with other
16 documents from that manila envelope?

17 A. Yes.

18 Q. Does he have a copy of all of the
19 documents from the manila envelope?

20 MR. SCHWANTES: I'm going to
21 object to the extent that you are getting into
22 anything produced in the attorney/client
23 relationship.

24 BY MR. LABER:

25 Q. Did you give him a copy of all of

WWW.BRITTONANDASSOCIATES.COM

1 the documents from the manila file?

2 MR. SCHWANTES: Again, I caution
3 you on that one. If you are getting into
4 anything that you produced in our
5 attorney/client relationship that's privileged
6 information, but to the extent that it's not,
7 you can answer the question.

8 (Mr. Bigelow returns to the
9 room.)

10 THE WITNESS: I gave him like
11 the papers that you have.

12 BY MR. LABER:

13 Q. That wasn't my question, ma'am.

14 A. Yes.

15 Q. You gave him a copy of all of the
16 documents that are in that file?

17 A. All of them that I had.

18 Q. So that would include the purchase
19 contract that Mr. Marfisi wrote out?

20 A. No.

21 Q. At the closing did you sign a deed
22 to the property?

23 A. I don't remember.

24 Q. Did you know that you were selling
25 the property to someone at the closing?

WWW.BRITTONANDASSOCIATES.COM

1 A. Yes.

2 Q. That was explained to you?

3 A. Yes.

4 Q. Do you know who you were selling the
5 property to at the closing?

6 A. Bigelow.

7 Q. And were you leasing the property
8 back at that time?

9 A. Yes.

10 Q. And did you sign a lease with Mr.
11 Bigelow at the closing?

12 A. I think there was one in there.

13 Q. I'm sorry, you think you did sign
14 the lease at the closing?

15 A. I think so.

16 Q. Do you remember how long the lease
17 was for?

18 A. I believe two years.

19 Q. Do you still have that lease in the
20 manila envelope that you have at home?

21 A. It should be in there.

22 Q. Other than the deed and the lease
23 and the closing statement, do you recall any
24 other papers that you would have signed at the
25 closing?

WWW.BRITTONANDASSOCIATES.COM

DAYTON - (937) 228-3370 CINCINNATI - (513) 651-3370

1 A. Paper for 20,000.

2 Q. Paper that you had received
3 \$20,000?

4 A. That I was supposed to receive
5 \$20,000.

6 Q. Explain that to me. What do you
7 mean a paper that you were supposed to
8 receive?

9 A. It was supposed, I was supposed to
10 receive \$20,000 at the closing and I signed
11 that, but that was the paper that was stating
12 that I would receive \$20,000. I received a
13 thousand and then that left 19,000.

14 Q. And did someone sign a promissory
15 note to you for the balance of that?

16 A. That's it.

17 Q. And that was explained to you at the
18 closing?

19 A. That was the paper that I signed was
20 for 19,000 I was supposed to receive at the
21 closing.

22 Q. The question was, that was explained
23 to you at the closing and your response was
24 yes?

25 A. Yes.

WWW.BRITTONANDASSOCIATES.COM

1 Q. So you accepted the \$19,000
2 promissory note at the closing?

3 A. I'm trying to make sure it was
4 either at the closing or just before the
5 closing. I know one of them I was supposed to
6 receive 19,000 and I think it was supposed to
7 be at the closing that I was supposed to
8 receive 19,000.

9 Q. When you received the promissory
10 note instead of, promissory note for \$19,000
11 instead of \$19,000 check or cash, did you
12 question that at the closing?

13 A. Yes.

14 Q. And to whom did you make that
15 question to?

16 A. The lawyer.

17 Q. And what was the response?

18 A. That they, that I was told I would
19 get 19,000, okay? Then they showed me another
20 promissory note that I was supposed to have
21 signed. The money went to Marfisi.

22 Q. At the closing they showed you a
23 promissory note that you signed. The 19,000
24 goes to Marfisi, is that what you said?

25 A. Yes.

WWW.BRITTONANDASSOCIATES.COM

1 Q. Pardon me, I'm just real confused
2 right now. At the closing, you received a
3 promissory note that someone is promising to
4 pay you \$19,000. Who is that someone?

5 A. Bigelow.

6 Q. Pete Bigelow?

7 A. Yeah.

8 Q. And did Mr. Bigelow actually sign
9 that promissory note and was it actually
10 delivered to you?

11 A. Yes.

12 Q. Was that at the closing?

13 A. That's when we signed that paper,
14 yeah.

15 Q. Being Exhibit No. 1?

16 A. Yes.

17 Q. And you signed this at the
18 closing?

19 A. We signed that, yeah.

20 Q. So Mr. Bigelow gave you a promissory
21 note for \$19,000 at the closing?

22 A. I know it was January 27. I don't
23 know exactly if that was the closing date or
24 when it was, but that's when I signed the
25 promissory note.

WWW.BRITTONANDASSOCIATES.COM

1 Q. Is that the same day that you signed
2 the lease and the deed to the property and got
3 the thousand dollar check?

4 A. Yes, because that was the day that
5 Marfisi took me and I got a thousand dollar
6 check that day.

7 Q. So at the closing you received a
8 thousand dollar check plus a promissory note
9 for \$19,000 from Mr. Bigelow payable to you?

10 A. Yes.

11 Q. And did you accept that at the
12 closing as payment for the \$20,000?

13 A. What do you mean did I accept? Are
14 you saying did I accept the promissory note?

15 Q. Yes.

16 A. Or the thousand?

17 Q. Did you accept the promissory note
18 as payment in terms of the contract that you
19 had signed with Mr. Marfisi?

20 A. I accepted the one from Bigelow,
21 yes.

22 Q. Now, you said something about Mr.
23 Marfisi getting involved in the promissory
24 note, what was that?

25 A. When I went to see Metcalf, I was

WWW.BRITTONANDASSOCIATES.COM